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Clifford Chance US LLP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No : 10/810,535
Applicant : David M. Binder et al.
Filed : March 26, 2004
Title : FLEXIBLE SUPPORT FOR GEL WRAPS

TC/A.U. : 3761
Examiner : Keshia L. Gibson

Confirmation No. : 8973

Docket No. : 7226-207

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION PURSUANT TO 37 C.F.R. 1.132

I, Edward C. Leicht, declare and say as follows:

1. I am a co-inventor of the subject matter claimed in the above-identified application.
2. I am a mechanical engineer with a degree from Cal Poly. I have been designing medical devices for more than 20 years.
3. I have reviewed the Office Action of July 12, 2005 and generally understand its contents. I have reviewed each of the references listed in the Office Action.
4. I, together with William J. Binder, also a co-inventor of the subject matter of the above-identified application, and Drew M. Winttingham, our legal representative, from Clifford Chance US LLP, had an interview with the Examiner of this application, Ms. Keshia L. Gibson on November 3, 2005.

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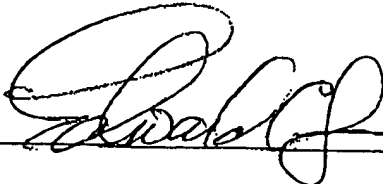
NYA 777661.1

Amendment in Response to July 12, 2005 Office Action
Application No. 10/810,535
Docket No. 7226-207

5. During the course of the interview, we presented to the Examiner five samples, one of which I built in accordance with the teachings of the current application. I built the other four samples guided by the teachings of the cited prior art references Pocknell 4,991,574, Fabo 5,891,076, Fabo 5,340,363 and Docter 6,143,946, respectively.

6. During the course of the interview, we demonstrated to the Examiner's satisfaction, that the prior art samples did not perform as required by the language of the claims of the current application. Drew M. Wintringham and William J. Binder explained the differences between the prior art samples and the sample of an embodiment of the invention of the current application. They demonstrated that none of the samples of the prior art were stretchable and configured to have elasticity sufficient to provide compression against a body surface without substantial fragmentation of the silicone gel, as required by claim 1, and therefore, as required by all pending claims of the current application (1, 3, 5, 28, 29, 31, 32 and 36-39). In view of our demonstration, the Examiner proposed to amend the claims with substitute language which could be more suitable to define the invention, which we subsequently did.

5. I do hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Edward C. Leicht



Date

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